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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,036	10/25/2001	Jonathan S. Stinson	S63.-9919	5380
490	7590	02/05/2007	EXAMINER	
VIDAS, ARRETT & STEINKRAUS, P.A. 6109 BLUE CIRCLE DRIVE SUITE 2000 MINNETONKA, MN 55343-9185			NGUYEN, VI X	
			ART UNIT	PAPER NUMBER
			3734	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	02/05/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/037,036	STINSON, JONATHAN S.
	<b>Examiner</b>	<b>Art Unit</b>
	Victor X. Nguyen	3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 November 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 and 15-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 and 15-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Amendment filed 11/15/2006 , with respect to claims 1-11 and 15-24 are acknowledged. However, upon further consideration, a new ground(s) of rejection is made in view of Healy and Tower. Rejections based on the cited reference(s) follows. The examiner regrets the delay for this new rejection which may have caused.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 and 15-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Healy et al (5,670,161) in view of Tower (5,868,783).

Healy discloses in fig 5, a process for forming a stent having the limitations of claims 1-23, including: the process comprises the step of forming a tubular stent of the polymer material (see col.9, lines 22-46); the stent radially expanding to produce an expanded diameter stent (see col. 3, lines 9-45), and at least one time repeating of steps a-b are all performed prior to deployment of the stent in a body (see col. 7, lines 50-67), but Healy is silent regarding the step of annealing the expanded diameter stent to shrink its diameter to a reduced diameter.

Tower teaches annealing the expanded diameter stent (see col. 3, lines 60-67 and col. 4, lines 1-7) to shrink its diameter to a reduced diameter (see abstract, and col. 5, lines 31-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Healy by constructing an annealing the expanded diameter stent

to shrink its diameter to a reduced diameter as taught by Tower in order to produce a satisfactory result for an optimal shape of the stent. Regarding claims 3 and 23, Healy discloses the stent is formed by molding or etching the polymer material (see col.9, lines17-21).

Regarding claims 4-5, Healy discloses the polymer material is thermoplastic or biodegradable (see col.3, lines 31-34).

Regarding claims 6-7 and 19, Healy discloses the polymer material is selected from the group consisting of PLA (poly(alpha-hydroxy acid) which is selected from the group consisting of PLA (polyglycolide) (see col.10, lines 35-49).

Regarding claims 8-9, Healy discloses the process has a temperature that is below the glass transition temperature of the polymer material; and wherein the step b) performs at room temperature (see col.3, lines38-45, lines 54-59 and col.4, lines 57-65).

Regarding claims 10-11, Healy discloses the process has a temperature that is above the glass transition temperature of the polymer material; and wherein the step c) performs at a temperature about 130 degree Celsius (see col.10, lines 1-9).

Regarding claims 16-20 and 22-24, Healy discloses a medical device adapted for body lumen navigation (see col. 3, lines 31-60) and a pattern of perforation is seen an a tube wall (see col. 4, lines 36-50.

#### *Response to Arguments*

3. Applicant's arguments filed 11/15/2006 have been considered but are moot in view of new ground(s) of rejections. Applicant is asked to please refer to the modified prior art rejections above where examiner addresses applicant's concerns regarding prior art rejection.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X. Nguyen whose telephone number is (571) 272-4699. The examiner can normally be reached on M-F (8-4.30 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Victor X Nguyen  
Examiner  
Art Unit 3734

VN  
1/29/2007

  
MICHAEL J. HAYES  
SUPERVISORY PATENT EXAMINER